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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re L.A.,

a Person Coming Under the Juvenile  
Court Law.

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

V.A.,

Defendant and Appellant.

B288971

(Los Angeles County  
Super. Ct. No. 17CCJP02605A)

APPEAL from a judgment of the Superior Court of Los Angeles County, Robert S. Wada, Judge. Affirmed.

Liana Serobian, by appointment of the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles, Acting Assistant County Counsel, and Jacklyn K. Louie, Principal Deputy County Counsel, for Plaintiff and Respondent.

V.A. (mother) appeals from a dispositional order removing her three-year-old son, L.A., from her physical custody, and restricting her to monitored visitation. Mother contends the evidence was insufficient to demonstrate that removing L.A. from her custody was required to protect the child, and that the juvenile court abused its discretion when it restricted her to monitored visitation. Finding no error, we affirm.

### **FACTUAL AND PROCEDURAL BACKGROUND**

Mother does not contest the juvenile court's jurisdictional findings, and L.A.'s father, Juan G. (father), is not a party to this appeal. Therefore, we confine our factual recitation and discussion to matters pertinent to portions of the dispositional order with which mother takes issue.

On January 18, 2018, respondent Department of Children and Family Services (DCFS) filed the operative first amended petition (FAP), under Welfare and Institutions Code section 300,<sup>1</sup> on behalf of then three-year-old L.A. (born February 2014).<sup>2</sup>

As sustained, the FAP alleged that (1) L.A.'s parents had a history of engaging in violent altercations in L.A.'s presence; (2) in October 2017 mother poured bleach on father's clothing in L.A.'s presence; (3) mother scratched father's neck with her nails and brandished a knife at him; (4) parents violated a Criminal Protective Order; (5) father

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<sup>1</sup> Further undesignated statutory references are to this code.

<sup>2</sup> The initial section 300 petition was filed in mid-December 2017.

failed to protect L.A. by permitting mother unlimited access to the child; and (6) in August 2017, mother was arrested for child endangerment after leaving L.A., unattended, in a vehicle with the keys in the ignition and the air-conditioning running for about an hour on a very hot summer day. DCFS alleged that such conduct endangered L.A.'s physical health and safety, and put him at risk of suffering serious physical harm, damage and danger. (§ 300, subds. (a), (b).)

The supporting evidence was as follows. The case began in Riverside County. In early August 2017, mother left L.A. alone in a car while she attended a medical appointment. The temperature outside was 96 degrees, and the interior temperature was in the high 70s or warmer. Mother left the car's ignition and air conditioner running, and the doors unlocked. A witness called 911. L.A. remained asleep and unresponsive for about five minutes after the police arrived, even after an officer repeatedly slapped his face and pressed his knuckles into the child's chest. Paramedics examined L.A., who was eventually found to be "fine." Mother was arrested, and charged with felony child endangerment. The charge was later reduced to a misdemeanor, and she was sentenced to community service and a year-long parenting program.

During Riverside Child Protective Services' investigation into that matter, father and L.A.'s paternal grandmother (PGM) also revealed that, about a week after her arrest for child endangerment, mother drove with L.A. to father's house and the parents argued. PGM was trying to comfort L.A. in mother's car because he was upset that his parents were arguing, when mother suddenly backed her car up "really

fast.” Paternal grandfather tried to pull PGM away to safety, but did not act quickly enough. Mother struck PGM with her car, and drove off. PGM claimed she was not hurt. Mother also vandalized father’s car while L.A. was present, breaking the mirror, slashing tires and scratching the paint with a rock. She had been angry with father, whom she believed was “cheating on her.” She also sent him a video of herself having sex with an Uber driver. On August 23, 2017, father was granted a temporary restraining order against mother. He had concerns about mother’s mental health and was worried about L.A.’s safety in her care. The Riverside agency closed the matter without juvenile court intervention after a family court awarded temporary legal and physical custody of L.A. to father, and ordered supervised visits for mother.

In mid-October 2017, DCFS received a referral that, while the restraining order was in place against mother, she had poured bleach on father’s clothes in L.A.’s presence.

A social worker met with father on October 23, 2017. Father said he had custody of L.A., and mother saw the child on scheduled days. Father said he and mother had been involved in an intermittent relationship for seven years. He denied there had been any domestic violence in their relationship, but acknowledged that he and mother needed to work on themselves, and believed he would benefit from anger management counseling.

The social worker spoke with a paternal aunt and PGM. PGM had not previously worried about L.A.’s safety in mother’s care, but mother’s odd recent behavior, including the incident when she left L.A.

alone in a car for an hour, was concerning and PGM feared mother was using drugs. Paternal aunt expressed concern regarding the parents' aggression and behavior. She referred to an incident earlier in October when mother poured bleach on father's clothes in L.A.'s presence, and a recent incident when mother scratched father's neck and pulled a knife on him. The aunt said L.A. was home when the parents argued, but she did not know if the child had witnessed the incident.

The social worker also spoke to the individual who made the October 2017 report to DCFS (reporter). The reporter shared PGM's concerns about mother's recent behavior. The reporter said L.A. was "always around" when his parents argued. Regarding the incident with bleach, the reporter explained that mother used her key to father's home to get inside, then poured bleach on clothes in his closet. Mother was arrested. The reporter did not know if L.A. had been present. The reporter said mother claimed to be a model, but the reporter believed she was a prostitute.

Mother, who appeared pale and thin, met with a social worker on October 30, 2017. She denied that that she was a prostitute, or that she used drugs. She agreed to undergo a drug test, which was negative.

Mother told the social worker that she was unwell, and needed to see a doctor, but was unsure what was wrong. She said she loved her son and believed that she was a good mother. She also acknowledged, however, that caring for L.A. as well as her great-grandmother (with whom she lived and who had dementia) was stressful. Mother was depressed and remorseful about having left L.A. alone in her car, which

she described as “just one horrible mistake,” and said she had learned her lesson.

Mother described her seven-year, on-and-off relationship with father as complicated. She believed they needed to learn communication skills, but denied that there had been any domestic violence in the relationship. Mother resented having been forced to be a single parent for almost two years, but she and father had reconciled and were trying to make the relationship work. Mother requested that DCFS provide individual and family therapy.

In early November, parents returned to family court and, at their request, the restraining order was dismissed. Parents were granted joint legal and physical custody of L.A., and the family began living together. The social worker met with the family on November 30, 2017. She reported that everyone looked “appropriate,” and mother appeared stronger than she had during their initial meeting. Parents informed DCFS that they continued to have verbal arguments, but there was no physical violence. They agreed to participate in individual and family counseling, and parenting and domestic violence programs. Due to concerns about the parents’ historical and current relationship, DCFS determined that L.A. would be at risk in mother’s custody. Father wanted custody of L.A., and agreed not to have contact with mother if L.A. was placed in his care.

A removal warrant was issued on December 15. When informed about the warrant, father did not understand why L.A. was being removed from mother. Nevertheless, both parents agreed to comply with court orders and DCFS’s recommendations. Mother acknowledged

having made a bad mistake when she left L.A. in the car, and admitted “accident[ally]” hitting PGM with her car. She also admitted making a sex video to get back at father who “ma[de her] crazy.”

The detention hearing was conducted on December 21. DCFS submitted a Last Minute Information (LMI) before the hearing, informing the court that father had contacted DCFS on December 20 to report an “episode” involving mother on October 15. He informed DCFS that mother had come to his house in the middle of the night while father and L.A. were asleep. She was “yelling,” and insisted she needed to retrieve her property from father’s home. Father had not let her inside. Instead, he walked her outside to be sure she left, then contacted the police. The police report indicates that, notwithstanding the existence of the restraining order, father had called mother and invited her to his home to “work out their relationship issues.” Father also recounted an incident, a few weeks earlier, when mother had been driving with L.A., who climbed out of his car seat. When mother realized this, she slammed the brakes and L.A. “went ‘flying’ and hit his head.” L.A. developed a bump on his head, but mother refused to take him to a hospital because she was afraid the child would be taken from her. Father was very upset with mother. He asked an anesthesiologist he knew to look at L.A. to see if he was okay.

Father understood that mother was not permitted to have unmonitored contact with L.A. He said he was tired of the situation with mother, and told the social worker “all of it is true” (referring to the allegations). Father assured the social worker that he and mother—whom he described as “abusive and explosive”—were no longer involved.

Following the hearing, L.A. was detained from mother. The child was released to father's care subject to certain conditions, including a prohibition against mother visiting father's home. Mother was permitted three monitored visits per week with L.A., and ordered to stay at least 100 yards away from father, including his home. The adjudication hearing was scheduled for January 22, 2018.

In its report for the adjudication hearing, DCFS reported that mother denied the allegations in the FAP, which she accused paternal aunt of fabricating. Mother admitted she had "messed up" in leaving L.A. alone in a car, and acknowledged that the child had been afraid. After that incident, mother said, "everything went downhill." The parents fought. Father broke her phone, and she "vandalized his car" (breaking the mirror, popping a tire and scratching the car with a rock), while L.A. watched from her car. Father called the police and mother was arrested. L.A. was released to father, who obtained a restraining order.

Mother denied pouring bleach on father's clothes, and denied scratching father's neck, brandishing a knife on him or making a sex video with an Uber driver. She noted that it was father who kept contacting her, and who persuaded her to come to his house, even after she reminded him of the restraining order. Mother said she was "stupid" for listening to him "instead of obeying the law." Mother had gone several times to father's house to see her son, and parents inevitably argued in front of L.A. Indeed, they fought so loudly and often that neighbors had called the police three times on a single day.



Father told a DCFS investigator that he asked the family court to lift the restraining order in November 2017 so parents could reconcile. He insisted that L.A. was never in harm's way, and mother was a "good mother." However, father also told DCFS that "something [was] not right in [mother's] head" and she needed mental health services. He described her as an "explosive and violent" person who took "her jealousy to another level."

Mother told DCFS she was not currently undergoing counseling or taking psychotropic medication. She was glad DCFS had intervened to provide support for her and L.A., and said she was willing to comply with court orders.

The adjudication hearing was conducted between January 23–26, 2018. At the outset, counsel for DCFS advised the court that she had observed parents conversing at the courthouse. The court admonished parents to comply with all court and criminal protective orders. The court admitted in evidence DCFS's reports, with attachments, three LMI's (striking one paragraph), and certified copies of records from the Riverside Family Law case, the Riverside Police Department, and a criminal protective order. Over DCFS's objection, the court also admitted mother's evidence (reflecting that, in January 2018, she had attended an orientation for a Parents in Partnership program, completed a 10-day parenting course and attended two therapy sessions), noting its intention to give that evidence appropriate weight, as necessary.

Both parents testified. Father testified that L.A. was not home when mother poured bleach on his clothes, but conceded that the child

had been home when mother threatened him with a knife. Father acknowledged having asked to have the restraining order dismissed in November 2017, so parents could reconcile. He acknowledged that he and mother had “broken up a few times” in the past only to reconcile, but insisted he wanted nothing more to do with mother. He understood that parents’ “unhealthy relationship” impacted their son.

Father denied any domestic violence. He did not consider either the bleach incident or the time mother pulled a knife on him to be “physical events.” Apart from the incident when mother left L.A. unattended in the car, father did not believe mother had put L.A. at risk. But he acknowledged that by brandishing a knife during an argument while L.A. was in the home (even if the child was in another room), mother put the child at risk.

Mother testified and acknowledged she had knowingly violated the order to stay away from father between August and November 2017, and that the parents had gotten back together despite the outstanding restraining order. If L.A. were released to her care, mother promised to have no contact with father without court or DCFS permission. Mother continued to deny that she had entered father’s home without permission and poured bleach on his clothes, or that she had pulled a knife on him. She believed father said she did those things in order to protect his family.

Mother claimed she “made a big mistake, bad mistake” when she left her three-year-old alone in a car on a hot summer day. She also conceded, however, that she had known she was “putting [L.A.] at risk when [she] left him in a running car unattended.” That experience

taught her that she “wasn’t really thinking and putting [her] son’s health or safety first.” She had been charged with felony child endangerment, which was reduced to a misdemeanor. She was sentenced to complete a year-long parenting program and perform 1000 hours of community service.

Mother testified that, since L.A. had been removed from her, she had learned she needed to get her life in order, and her son needed “a mentally stable, emotionally stable mother.” Mother was willing to seek help for her emotional problems. At the time of trial, mother had attended 10 parenting classes, and participated in weekly counseling sessions for about a month. In counseling, she was addressing vandalizing father’s car, pouring bleach on his clothes, and leaving L.A. in the car. Her counseling had not addressed scratching father’s neck or pulling a knife on him, which she continued to deny (and also denied pouring bleach on father’s clothes). When asked what she would do differently in the future, mother responded: “I know right now is not a good time for me and dad to rekindle or get back together, because my number one priority is my health and my son, and my son’s health.”

At the close of argument, the court sustained the FAP as pled, striking one count against father. The court observed that, in making its findings, “the big issue [had been] credibility.” After observing each parent’s demeanor, the court found father credible when he testified that domestic violence occurred. Based on its observations of “mother’s conduct, and the way that she was on the stand,” the court was convinced that the events she had denied had occurred.

The court proceeded to disposition based on the same evidence admitted for adjudication, and declared L.A. to be a dependent of the court. It observed that it had found “more than . . . clear and convincing evidence to remove [L.A.] from mother.” The court pointed specifically to mother’s non-accidental conduct (child endangerment) in leaving L.A. unattended in a car on a very hot day, and the incident in October 2017 when mother went to father’s house, despite knowing that by doing so she was violating a restraining order. The court issued a home-of-parent–father order, and ordered that mother be provided reunification services, and at least three monitored visits per week. This timely appeal followed.

## DISCUSSION

Mother contends there is insufficient evidence to support the juvenile court’s order removing L.A. from her custody because there were less drastic ways to protect his health and safety. She also asserts that the juvenile court abused its discretion in limiting her to monitored visitation.

### 1. *Substantial Evidence Supports the Juvenile Court’s Removal Order*

Under section 361, a child may not be removed from the custody of a parent with whom the child resided when the petition was filed unless the juvenile court finds, by clear and convincing evidence, the existence of at least one condition set out in subdivision (c). (See § 361, subd. (c); *In re Isayah C.* (2004) 118 Cal.App.4th 684, 695.) This includes a court

finding, under section 361, subdivision (c)(1), that there would be a substantial danger to the child's physical health, safety, protection, or physical or emotional well-being if returned to parent's custody, and there are no reasonable means to protect the child short of removal. (§ 361, subd. (c)(1).) The "court must consider alternatives to removal, [but] it has broad discretion in making a dispositional order." (*In re Cole C.* (2009) 174 Cal.App.4th 900, 918 (*Cole C.*).) "A removal order is proper if it is based on proof of (1) parental inability to provide proper care for the minor and (2) potential detriment to the minor if he or she remains with the parent." (*In re T.W.* (2013) 214 Cal.App.4th 1154, 1163.) A "parent need not be dangerous and the child need not have been actually harmed for removal to be appropriate. The focus of the statute is on averting harm to the child. [Citations.] In this regard, the court may consider the parent's past conduct as well as present circumstances. [Citation.]" (*Cole C.*, at p. 917.)

We review a dispositional order for substantial evidence, bearing in mind the heightened burden of proof. (*In re Ashly F.* (2014) 225 Cal.App.4th 803, 809.) Conflicts in the evidence and reasonable inferences are resolved in favor of the prevailing party. (*In re Ricardo L.* (2003) 109 Cal.App.4th 552, 564.) "[I]ssues of fact and credibility are questions for the trier of fact." (*Ibid.*) Here, substantial evidence supports the court's determination that removal was necessary.

First, mother was involved in a volatile, intermittent relationship with father for seven years. Both parents tried to characterize their confrontations as nothing more than arguments. But the record

contains substantial evidence, credited by the trial court, reflecting mother's acts of physical violence and aggression against father. These included scratching father's neck with her nails and pulling a knife on him during an argument, vandalizing father's car, and entering his house in violation of a court order to ruin his clothing. Mother committed each of these acts—the occurrence of which is uncontested on appeal—in her son's presence. The incidents posed a danger to L.A., who could have wandered into the room when mother threatened father with a knife, or been hurt when she vandalized father's car. Indeed, mother's inability to control her actions during one heated argument with father (in L.A.'s presence), caused her to back her car up suddenly and carelessly, striking PGM.

Second, mother and father had a history of repeatedly ending and reviving their volatile relationship, and mother knowingly violated court orders not to contact father. It is true that parents were not involved in a relationship at the time of the disposition hearing, and father insisted he had no intention of reviving his relationship with mother. However, mother's intentions with regard to a possible reconciliation with father were equivocal. She left open the possibility that she and father could maintain a future relationship, possibly assisted by couples' counseling.

Third, mother never fully accepted responsibility for her destructive conduct that brought the family to DCFS's attention. Although mother claimed she had made a horrible mistake by leaving her son unattended in a car on a hot summer day, she also acknowledged that she had known at the time that it was dangerous to

leave L.A., but did so anyway. As for her acts of aggression, such as assaulting father, purposefully ruining his clothes, or striking PGM with a car, mother simply denied that the first two events occurred, and dismissed the third as a mere “accident”. Further, mother’s failure to put her son’s health and safety first is illustrated by the incident when she refused to have him examined after he struck his head in the car, for fear it would impact her ability to maintain custody.

Courts have affirmed juvenile court decisions finding no reasonable means to protect a child absent removal in cases in which a parent has failed to accept responsibility for the wrongful actions that brought the family before the dependency court. (See, e.g., *Cole C.*, *supra*, 174 Cal.App.4th at p. 918; *In re John M.* (2012) 212 Cal.App.4th 1117, 1127 [child could not be placed with mother under “strict supervision” where mother, among other things, failed fully to acknowledge her wrongful conduct].) It is abundantly clear that mother has refused to accept responsibility for the destructive and violent conduct that necessitated juvenile court intervention.

Mother takes issue with the fact that the court did not explicitly consider an alternative to removal, such as placing L.A. with both parents with a case plan requiring participation in remedial programs, and stay-away orders, while supervising the child’s safety and well-being in parents’ separate homes. Mother is correct that the juvenile court did not explicitly identify facts in support of its conclusion that there were no reasonable means short of removal to protect L.A. (§ 361, subd. (d).) However, a juvenile court’s failure expressly to state its findings on the record does not require reversal where, as here, such

findings may be implied, and the appellate record contains substantial evidence to support such implied findings. (See *In re Andrea G.* (1990) 221 Cal.App.3d 547, 554–555.)

On this record, the juvenile court reasonably could conclude that mother was unlikely to alter her behavior without strict court supervision. (See *In re Gabriel K.* (2012) 203 Cal.App.4th 188, 197 [“One cannot correct a problem one fails to acknowledge”]; *In re John M., supra*, 212 Cal.App.4th at p. 1127 [child could not be placed with mother under “strict supervision” where mother, among other things, failed fully to acknowledge her wrongful conduct].) The record contains ample evidence to support the conclusion that mother posed “a substantial danger to the physical health, safety, protection, or physical or emotional well-being” of her young son, and “there [was] no reasonable means by which [his] physical health [could] be protected without removing [L.A.] from” mother’s physical custody. (§ 361, subd. (c)(1).)

2. *The Court Did Not Abuse Its Discretion in Restricting Mother to Monitored Visits*

We review a juvenile court’s visitation order for abuse of discretion. (*In re Brittany C.* (2011) 191 Cal.App.4th 1343, 1356.) We will not disturb the order unless the court made an arbitrary, capricious, or patently absurd determination. (*Ibid.*)

For the same reasons discussed above, by which we conclude that substantial evidence supports the order removing L.A. from mother’s custody, we conclude that the juvenile court did not err in restricting



mother to monitored visitation. At the time of the disposition hearing, mother had just begun to address her behaviors that placed L.A. at risk of substantial danger, having attended 10 parenting classes and two counseling sessions. Her nascent progress, while laudable and necessary, did not provide adequate assurance that unmonitored visits were in L.A.'s best interest. On this record, we cannot conclude that the juvenile court's order restricting mother to monitored visitation exceeded the bounds of reason. (See *In re Stephanie M.* (1994) 7 Cal.4th 295, 318.)

### **DISPOSITION**

The dispositional order is affirmed.

### **NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

WILLHITE, Acting P. J.

We concur:

COLLINS, J.

DUNNING, J.\*

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\*Retired Judge of the Orange County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.